Customer No. 25280 Case 5113

REMARKS

The data from the reference to de Simone which is being used to support the rejection indicates that the rebonded foam materials formed by the practices in that reference have dramatically reduced tensile and tear strengths in comparison to the base foam materials from which they are derived. Such reduction in strength is even more pronounced in constructions such as those advocated by the Office Action which do not use sandwiching encapsulating layers. Such reduced tensile and tear strengths weigh against incorporation within a carpet tile wherein internal stability must be maintained.

Applicants note the position set forth in the advisory action that the de Simone invention is not limited to a sandwich structure comprising two outer layers and a rebond foam core layer and that the arguments presented against substituting such a sandwich structure for the foam layer in Higgins '857 are thus unpersuasive. The Examiner specifically notes that examples 17-19 of de Simone do not use outer covering layers.

Applicants do not contest that rebond foam blocks may be formed without sandwiching covering layers. The examples referred to by the Examiner confirm this point. However, the limited teachings in de Simone relating to the suitability of rebond as a carpet backing are limited specifically to sandwich structures despite the fact that non-sandwiched block structures were also produced. That is, in reference to carpeting which forms the basis of the rejection the sandwich construction is the only embodiment described. Thus, while the de Simone teaches that foam blocks may be formed without sandwiching layers, there is no teaching that such a block structure may be used in a carpet. Accordingly in regard to carpeting, de Simone is in fact limited to sandwich structures in which rebond foam forms a core layer.

As best understood, the data set forth in the various examples reflects the fact that rebond foam blocks formed by the process of de Simone without sandwiching covering layers are characterized by substantially reduced tensile strengths in comparison to foam structures of the same thickness and density which incorporate a rebond core and covering layers. In particular, in de Simone the foam block of Example 19 having a 1 cm thickness and a density of 40

kilograms per cubic meter was measured to have a tensile strength of 32 kPa which is less than half of the tensile strength in the sandwich structure in Example 11 (76 kPa) having the same thickness and density. Moreover, this represents a nearly a 75% percent reduction in strength from the base foam (121 kPa) as reported in Example 12.

Applicants respectfully submit that such dramatic reductions in tensile strength weigh heavily against the modification advocated by the Office Action in relation to a carpet tile product wherein strength and resilience are of critical importance. Moreover, the position of the Applicants is supported by the sworn declaration of a person of skill in the art intimately familiar with the products set forth in the primary reference to Higgins. Accordingly, reconsideration and withdrawal of all outstanding rejections is requested at this time.

Extension Request/Authorization to Charge Deposit Account:

To any extent required, a request for an extension of time is hereby made. Authorization is provided to deduct the RCE fee and any additional fee as may be required from Deposit Account No. 04-0500.

Respectfully submitted,

December 11, 2003
MILLIKEN & COMPANY
P. O. Box 1926
Spartanburg, SC 29304

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to The United States Patent and Trademark Office at 703-872-9311 on December 11, 2003.

Daniel R. Alexander
Attorney for Applicant(s)

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